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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/021,347      | 12/19/2001  | Helmut Witteler      | 52034               | 9063             |

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[REDACTED] EXAMINER

POPOVICS, ROBERT J

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER  
1724 S

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

72-5

**Office Action Summary**

|                 |            |                |                 |
|-----------------|------------|----------------|-----------------|
| Application No. | 10/021,347 | Applicant(s)   | Witteler et al. |
| Examiner        | Popovics   | Group Art Unit | 1724            |

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

**Period for Reply**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

Responsive to communication(s) filed on 10/29/02

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

**Disposition of Claims**

- Claim(s) 1-14 is/are pending in the application.
- Of the above claim(s) 14 is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-13 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

**Application Papers**

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

All  Some\*  None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

**Attachment(s)**

- Information Disclosure Statement(s), PTO-1449, Paper No(s). Z+3
- Notice of Reference(s) Cited, PTO-892
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Interview Summary, PTO-413
- Notice of Informal Patent Application, PTO-152
- Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13, drawn to a PROCESS OF FILTERING AN AQUEOUS LIQUID USING FILTER AIDS, classified in class 210, subclass 777.
  - II. Claim 14, drawn to a FILTER AID COMPOSITION, classified in class 525, subclass 7.
2. The inventions are distinct, each from the other because of the following reasons:  
Inventions of Group II and Group I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product, such as in a formulation for crop protection agents.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II and vice versa, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mr. Herbert B. Keil on November 29, 2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claim 14 has been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

*Priority*

7. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

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***Claim Rejections - 35 USC § 112***

8. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is unclear what manipulative steps Applicants regard as their invention. See 37CFR(i).

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-8 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiss (US 3,890,224). See column 5, lines 23-33, and column 8, lines 20-24.

11. Claims 1,3,5-6,8-9,11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 40 00 978 A. See column 3, lines 25-56, and column 4, lines 48-51 and 65-68.

12. Claims 1,3,5-6,8-9,11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Detering et al. (US 5,094,867). See those portions of the patent which correspond to the referenced portions of DE 40 00 978 A.

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***Claim Rejections - 35 USC § 103***

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of DE 40 00 978 A and Detering et al. (US 5,094,867) and Oechsle et al. (US 5,484,620). Claim 10 differs from either of DE 40 00 978 A or Detering et al. (US 5,094,867) by specifying the fermented beverage to be beer. Oechsle et al. disclose the use of filter aids to filter both beer and wine (col. 8, lines 50-65). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the filter material of either of DE 40 00 978 A or Detering et al. (US 5,094,867) in order to filter beer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Popovics whose telephone number is (703) 308-0684.

RJP  
December 1, 2002



ROBERT J. POPOVICS  
PRIMARY EXAMINER